

10ème COLLOQUE DOUANIER EUROPEEN 10th EUROPEAN CUSTOMS CONFERENCE



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- **Michael SCHMITZ – OMD - WCO**

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“Destination – 100% paperless trading”

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Remarks by

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Ladies and gentlemen

It is a great pleasure to be here at the 10th European Customs Conference to discuss “Secure Trading in a Paperless Environment.” At the outset I would like to thank the conference organizers and offer the Secretary-General’s apologies; Mr. Mikuriya would have loved to have been here but priorities in Brussels dictated otherwise.

What is the WCO? We are an independent, international, intergovernmental organization set up in 1952 by the Convention establishing a Customs Cooperation Council to simplify and harmonize Customs procedures. The WCO today has 175 Member states represented by their Customs administrations that collectively process about 98% of global trade.

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We are based in Brussels and I am the Director of the Compliance and Facilitation Directorate which is where WCO's trade facilitation and enforcement business is managed.

The primary goal of the WCO prior to 9-11 was to facilitate the global supply chain, after 9-11, the primary goal of the WCO was to secure and facilitate the global supply chain.

The WCO does not view security and facilitation as mutually exclusive propositions. We view security and facilitation of the global supply chain as opposite sides of the same coin.

The WCO believes that properly focused and adequately layered risk managed approaches to supply chain security will actually facilitate global trade by permitting Customs to focus its limited resources on cargo that is moving in supply chains that have not been secured.

Antidotal evidence since 9-11, indicates that increased Customs security measures have actually increased trade facilitation.

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The World Bank's 2007 Doing Business Report stated that : “the interesting and rather surprising result was that improved security in many cases made trading across borders faster, not slower.”

One reason for this apparent increase in facilitation may be, at least in the opinion of the WCO, Customs new focus on exportation and the advance electronic receipt of manifest and other appropriate trade and transport information earlier in the movement of goods within the global supply chain.

Customs administrations worldwide face a trade facilitation trade security dilemma, on one hand there is, at least until recently, the continuing growth in legitimate international trade, while on the other hand there is the illicit cross border movement of weapons of mass effect, drugs, counterfeit merchandise, dual use chemicals, small arms, nuclear material, undeclared merchandise, currency, cultural property, endangered species, pornography, trafficked human beings, hazardous waste, unsafe foodstuffs and dangerous consumer products.

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In light of these concerns, Nations seek from their Customs administration's economic and physical security, while international traders look for uniformity, predictability, transparency and efficiency in their dealings with Customs.

The WCO finds itself in the business of globalizing and to the extent possible standardizing Customs control efforts to improve both the security and facilitation of the global supply chain.

Our most visible efforts to this end are the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures and the SAFE Framework, a global supply chain initiative developed at the WCO by the international trade community and WCO Member states to secure and facilitate the global supply chain. In the 15 to 20 years prior to 9-11, Customs administrations began focusing more on trade facilitation rather than continuing to support unnecessary Customs controls.

At the WCO, this trade facilitation focus lead to the negotiation of the RKC between 1995 and 1999.

The international trade community was an active and valuable participant in the negotiations of the RKC.

Today, 64 WCO Member states, including almost all of the world's major trading nations, are signatories to the RKC and well over 85% of world trade is currently managed under RKC procedures. 95% of the trade facilitation proposals submitted to the WTO in the Doha Round are consistent with the RKC.

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However, 9-11 caused the world to refocus on Customs control and recognize a simple truth : every nation has an absolute right to determine who and what crosses its national borders. The instrument of this exercise of sovereign control is, and always has been, Customs.

In recent years the role of customs has expanded greatly; originally an agency primarily involved in revenue collection, its role typically now includes the protection of society from prohibited, dangerous or controlled goods. In recent years, this role has expanded even further to embrace national security.

High expectations from governments and other authorities require Customs to better secure the international trade supply chain using its strategic position, its powers to inspect means of transport and cargo and its overall know-how and experience.

Customs is expected to assume security responsibilities in cooperation with other government agencies and the business community.

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The international trade and transport communities and organizations such as the WTO and the World Bank expect Customs to continue to look into the possibilities of further facilitating trade whilst simultaneously conducting its other trade management and trade security responsibilities.

The overall theme at this event is “Secure Trading in a Paperless Environment” and this has at least two important components, namely “secure trading” and doing so in a “paperless environment.”

I shall briefly consider each separately before looking at their strategic intersection. Firstly “paperless trading” might be seen as a system in which trade information is exchanged through dematerialized, structured trade documents, based on open and agreed standards. Since goods do not move faster than the information controlling them, paperless trade functions as a great alternative to the costly, inefficient, and often ineffective paper document systems currently in place throughout much of the international global supply chain. “Secure Trading” is at the heart of the challenge facing Customs in today’s world.

Since the transformational events of 9/11 the WCO has adopted the *SAFE Framework of Standards that formulates a multi-layered risk-based approach to the better security and facilitation of trade.*

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This milestone instrument was passed in 2005 by the WCO Council and it includes:

- o commitment to advance electronic data as the means to best mitigate risk;
- o better synergy amongst Customs administrations;
- o more enduring and deeper partnerships between Customs and the trade – for example via AEO programs;
- o moving away from the old “fortress” mentality with sole focus upon import control towards a holistic supply chain management perspective that includes a focus on exports and the exchange of data between Customs administrations;
- o Coordination, cooperation and collaboration among all border control agencies (Coordinated Border Management).

Security in all its forms presents a multi-faceted challenge to Customs; as recently as October 9th, Ambassador Jorge Urbina, Chair of the UN Security Council 1540 Committee, visited Secretary General Kunio Mikuriya and me at the WCO. During our discussions about the WCO's security-related activities, and in particular its active participation in the work of the United Nations Security Council, we agreed to continue to enhance co-operation towards the shared goals of preventing the proliferation of weapons of mass destruction and combating terrorism.

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Perhaps more directly connected to the theme of this conference, WCO has been in regular contact with the G20 nations as they have analyzed and put forward means to redress the current global financial situation. We have put a number of recommendations to the G20, all of which have been acknowledged as relevant and appropriate to the global response. The WCO response reads in part: *“To encourage confidence in the international trading system during the global economic crisis, the WCO urges the G20 to note and promote the following actions:*

- ❑ *National and regional authorities should promote trade facilitation measures consistent with international Customs and other border agency standards.*
 - ❑ *Advanced economies and international donor organizations should promote Customs modernization capacity building programs, including the necessary infrastructure for emerging market economies and developing countries, which will promote trade and investment globally.*
 - ❑ *The WCO and other relevant international organizations should be encouraged to monitor the trends in international trade and to identify best practices in sustaining the global trading system.”*
- In that communication to the G20, WCO defined the term *Trade Facilitation* to mean “the simplification and harmonization of international trade procedures”, where ‘trade procedures’ mean the “activities, practices and formalities in collecting, presenting, communicating and processing data required for the movement of goods in international trade”.

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As a result you can see that our multi-pronged argument for enhanced trade facilitation in the global downturn is based fundamentally upon the better management of trade data.

There can be little doubt that the volumes of data transmitted today, the speed with which all supply chain parties must react and the need for accuracy combine to imply that the only way data can be managed effectively is electronically.

Hence while the question put in the conference agenda reads “what is at stake in paperless trading?” I would argue the other way around – clearly the while modern trading system is predicated upon accurate, timely and trustworthy data and this can only be managed by information technology.

What is at stake if we tried to revert to paper systems would be the entire system ? It would not work and the task at hand must be to identify areas where paper documents continue to proliferate and reduce overall efficiency and effectiveness. Like any chain, the international supply chain is only as strong as its weakest link; expensive, cumbersome and error-prone paper processes are those weak links.

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The WCO has developed a number of important instruments aimed at eliminating paper procedures:

- o the Revised Kyoto Convention is a complete dossier of best practice in Customs procedure and contains an entire section on IT, including a clear commitment to the elimination of paper and other unnecessary processes
- o the WCO Data Model is a set of standardized data elements and message formats that enable all administrations to deal electronically with all supply chain parties in a single harmonized manner.
- o the integrated supply chain management guidelines explain how advance data can mitigate risk early and allow scarce resources to be trained upon high risk consignments.
- o I have already mentioned SAFE which contains recommended minimal data sets based on the data model that are aimed at standardizing international advance data needs. The SAFE Framework is consistent with and based on the Revised Kyoto Convention.
- o the UCR is a simple number that is designed to be attached to a trade shipment at its earliest point (ordering, dispatch) until its arrival at its final destination in order to provide better tracking, and to allow for much less data to be transmitted, particularly in the case of trusted parties along the entire supply chain.

There is mention in the conference document of the consequences of abolishing paper – many such consequences will have a legal bearing. The WCO is working with UNCITRAL (UN Commission on International Trade Law) to better understand the legal implications of a paperless environment. This work is targeted at the coordinated border or single window environment where Customs works collaboratively with the various border regulatory agencies in a physical and virtual sense. Without going into details, UNCITRAL adopted in 2005 its so-called “United Nations Convention on the Use of Electronic Communications in International Contracts” that aims to enhance legal certainty and commercial predictability where electronic communications are used in relation to international contracts.

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It addresses:

- o the determination of a party's location in an electronic environment;
- o the time and place of dispatch and receipt of electronic communications;
- o the use of automated message systems for contract formation; and
- o the criteria to be used for establishing functional equivalence between electronic communications and paper documents -- including "original" paper documents, as well as, between electronic authentication methods and hand-written signatures. In so doing, UNCITRAL has already put in place the legal infrastructure for a paperless environment and thus addressed, at least from a legal perspective, the question in the conference paper “what are the consequences of abolishing paper for business and Customs responsibilities.”

I think the most important aspect of the UNCITRAL position is “functional equivalence” and our job at the WCO is to transfer the high level UNCITRAL rules into more specific border management language. At this point, I should add that WCO is hardly alone in the quest to abolish paper.

One high profile global initiative has been developed by IATA, the International Air Transport Association, an international body representing most of the world’s major airlines and an important strategic partner for the WCO.

Hoping to replicate their success with e-ticketing, IATA has embarked upon an even more rigorous challenge with its “e-Freight” Project which aims to not only make air waybills paperless, but in so doing to encourage the other key air supply chain parties to similarly remove paper forwarding instructions, orders, invoices, packing slips and the myriad other paper documents that plague air cargo movements.

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The IATA e-Freight Project is showing encouraging signs of progress and the WCO is especially pleased to note that IATA is committed to the use of UN and WCO standards such as the WCO Data Model I mentioned earlier.

We have enjoyed similar support for our standards with the International Maritime Organization, the UN body responsible for standardized best practice in marine transport, and we work closely with other international agencies to try to achieve similar standard approaches for the removal of paper in other transport modes as well as for temporary imports (for example the Istanbul Convention/ATA carnets), transshipments, transit and, in fact, all aspects of Customs business at the border. In conclusion I would once again say that the question is not “what is at stake in paperless trading” but rather “what is at stake if we were to try to revert to paper systems?”

There is no doubt in my mind that WCO and its partners in industry and Government have been on the correct path for many years in our quest to get rid of paper and its attendant processes. This quest is by no means complete, but the way ahead is plain enough and the tools required are at hand. Collectively countries need to harness the political will to assert the benefits of paperless systems, to make resources available to manage the transition away from paper and to work with other Governments to achieve an international trading environment based upon the seamless exchange of standardized data. WCO is committed to the realization of this outcome and we continue to strive for that success.

Thank you

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Electronic customs clearance in the EU

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Abbreviations

- AEO Authorised Economic Operator
- CC Customs Code
- CCIP Customs Code Implementing Provisions
- ECS Export Control System
- EMCS Excise Movement Control System
- EORI Economic Operator Registration Identification
- ICS Import Control System
- IT Information Technology or data processing technique
- MCC Modernised Customs Code
- MS Member State
- NCTS New Computerized Transit System
- RIF Risk Information System
- VAT Value Added Tax



Overview

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7. Issues related to centralised clearance
8. Issues related to self assessment
9. Should the EU create a common repository for declarations?
10. Provisions of single access points, electronic interfaces and single window services
11. Conclusion



1. Introduction (1)

- Basic distinction : Is the use of electronic declarations/notifications and the submission/keeping of electronic documents
 - allowed or
 - mandatory?
- Reason : Economic operators have a choice (and can consider costs and benefits) only where this is
 - allowed but not
 - mandatory



1. Introduction (2)

- In some cases, the choice is limited by the fact that customs authorities must accept the economic operator's choice
- In some cases, the customs authorities may require the use of electronic declarations/notifications



2. Obligations to use IT in current EU law

- Community/common transit – normal procedure (Art. 353 (1) CCIP)
- TIR (Art. 454 (2) CCIP)
- Export (Art. 787 (1) CCIP)
- Outward processing (Art. 589 and 787 (1) CCIP)
- Re-exportation after a customs procedure with economic impact (Art. 841 (1) CCIP), except ATA Carnets (Art. 841 (2) CCIP)
- Simplified and supplementary declarations and local clearance after 31 December 2010 (Art. 253a (2) CCIP)
- Entry summary declarations after 31 December 2010 (Art. 183 (1) CCIP)
- Exit summary declarations after 31 December 2010 (Art. 842a CCIP)



3. Obligations to use IT which may be imposed by MS

- Carrying out of customs formalities, e.g. declarations for release for free circulation (Art. 4a CCIP); in such cases certain customs requirements may be waived (Art. 4c CCIP)
- Notification of arrival of the means of transport (Art. 184g CCIP)
- Notification of arrival of the goods at the customs office of exit (Art. 796c)



4. Use of IT which may be allowed by MS

- Electronic customs declarations (including simplified and supplementary declarations and local clearance) where not prescribed in the CCIP (Art. 61 (b), 77 (1) CC, Art. 253a (1) CCIP)
- Keeping documents (paper or electronic) accompanying an electronic customs declaration at the customs authority's disposal (Art. 77 (2) CC)
- Making out and transmitting electronic documents (Art. 224 CCIP)



5. IT requirements in the MCC (1)

- Except where otherwise specified in the MCCIP, all exchanges of data, accompanying documents, decisions and notifications and the storage of data shall be made using IT (Art. 5 (1) MCC)
- Entry and exit summary declarations and customs declarations shall be lodged electronically (Art. 88 (1), 107 (1), 180 (2) MCC)
- Specifications for electronic declarations shall be laid down in the MCCIP (Art. 5 (2), 108 (1) MCC)



5. IT requirements in the MCC (2)

- Where a customs declaration is lodged electronically, the customs authority may allow (instead of a presentation of a paper document) that supporting documents are (Art. 108 (2) MCC)
 - lodged electronically, or
 - Made available to customs by access to the economic operator's computer system, or
 - Made available after release of the goods



5. IT requirements in the MCC (3)

- Entry and exit summary declarations and customs declarations may – if the customs authority accepts – be provided by giving customs access to the economic operator's records (Art. 87 (2), 107 (1), 180 (3) MCC)
- The Commission shall adopt rules for the interoperability of electronic customs systems concerning the data exchange between (Art. 183 (1) MCC)
 - MS's customs authorities
 - MS's customs authorities and the Commission
 - MS's customs authorities and economic operators



6. How far should harmonization go ? (1)

- Where EU wide systems exist (ECS, ICS, NCTS) the common domain (handling the communication between too MS or a MS and the Commission) is always harmonized
- The external domain (concerning the communication between an economic operator and the customs authority of a MS) could be harmonized with regard to
 - the data elements
 - the message structure
 - the technical message exchange specifications



6. How far should harmonization go ? (2)

- The national domain (concerning processes and communication within a MS) could be harmonized with regard to
 - the design and interlinking of national processes (e.g. entry summary declaration, notification of arrival, presentation of the goods, customs declaration)
 - the interfaces between different systems (e.g. ECS, EMCS, AEO, EORI, RIF)



6. How far should harmonization go ? (3)

- The method of harmonization could be
 - by law (MCCIP)
 - common functional specifications
 - guidelines



7. Issues related to centralised clearance (1)

- According to Art. 106 (1) MCC an economic operator can be authorized to lodge, or make available, a customs declaration at the customs office responsible for the place where he is established though the goods are presented to another customs office (possibly in another MS). The following issues need to be resolved:
 - Which customs procedures are to be covered?
 - Should entry and exit summary declaration be included?
 - Should declarations made by entry in the records be covered?



7. Issues related to centralised clearance (2)

- How should (EU and national) prohibitions and restrictions be controlled?
- How should the declaration and payment of import taxes (VAT, excise) be regulated and managed?
- How should guarantees (both for customs duties and import taxes) be regulated and managed?
- How should the national statistical offices and Eurostat receive the statistical data emanating from the customs declarations?
- Should a waiver from presentation be possible under centralised clearance (see Art. 112 (1) (2nd sub-para) MCC)?



8. Issues related to self assessment

According to Art. 116 MCC an economic operator can be authorised

- to assess himself customs duties and
- to perform himself certain controls normally performed by customs

This facilitation may be combined with centralised clearance if the applicant holds the AEO status.

Most of the questions raised with regard to centralised clearance need to be resolved in this context, too.



9. Should the EU create a common repository for declarations?

- A common repository for declarations (and possibly supporting documents) could replace other reporting requirements and databases and serve as a single source of information for all users groups and purposes
- It could reduce complexity, reduce the number of IT applications and interfaces to be developed and maintained
- It could reduce the volume of data and messages to be communicated between MS and between MS and the Commission
- It would allow mid- and long term savings for MS due to reduced reporting requirements



10. Provision of single access points, electronic interfaces and single window services (1)

Decision No 70/2008/EC on a paperless environment for customs and trade obliges MS and the Commission to evaluate, by 15 February 2011, common functional specifications for (Art. 4 (4))

- a framework of single access points, providing a single interface for electronic customs declarations, even if the customs procedure is carried out in another MS
- electronic interfaces, enabling economic operators to conduct all customs-related business with the customs authority of the MS where they are established, even if several MS are involved



10. Provision of single access points, electronic interfaces and single window services (2)

- single window services, enabling economic operators to submit all information required for import and export clearance to customs, including information required by non customs-related legislation



11. Conclusion (1)

The overview of the forthcoming main tasks shows that they are cost-intensive and time-consuming

It will not be possible to automate all customs processes using uniform rules by 2013

The objectives set out in the MCC and the eCustoms Decision must be rolled out in stages



11. Conclusion (2)

Such a staged approach is in the interest of economic operators and administrations as it avoids a hurried introduction of IT systems and allows sufficient time for

- analysis
- development
- testing and adjustment
- information and training